

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEBRASKA

UNITED STATES OF AMERICA,

Plaintiff,

v.

SAHEED B. DAIRO,

Defendant.

8:22CR35**ORDER**

In early 2022, defendant Saheed B. Dairo (“Dairo”) was indicted on several fraud and identity-theft offenses. From the outset of the proceedings against him, Dairo retained private counsel from Lowther, Walker Law Firm to represent him. On December 13, 2023, Dairo pleaded guilty pursuant to a plea agreement to one count of bank fraud, in violation of 18 U.S.C. § 1344, and one count of aggravated identity theft, in violation of 18 U.S.C. § 1028A(a)(1) (Filing No. 40). On March 19, 2024, the Court sentenced Dairo to a total of 175 months imprisonment to be followed by five years of supervised release (Filing No. 48). Judgment was entered that same day (Filing No. 49).

Now before the Court is Dairo’s *pro se* letter titled “Notice of Appeal” (Filing No. 53). Dairo describes the difficulty he is having accessing the law library at the United States Penitentiary in Leavenworth, Kansas, while the facility is on lock down. He also notifies the Court that he intends to file his “appeal *pro se*, without [his] counsel.” The Court construes his letter as a timely notice of appeal. Fed R. App. P. 3, 4(b); *see also Lincoln Composites, Inc. v. Firetrace USA, LLC*, 825 F.3d 453, 448 (8th Cir. 2016) (stating Rule 3 requirements are liberally construed and deemed met even if a litigant’s filing has technical errors).

That said, Dairo has neither submitted the requisite \$605.00 fee for his appeal nor requested leave to proceed in forma pauperis. Since Dairo afforded retained counsel in the

district-court action, he must file a motion in this Court and attach to it an affidavit sufficiently demonstrating his “inability to pay or to give security for fees and costs” on appeal in order to proceed in forma pauperis. Fed. R. App. P. 24(a)(1). That affidavit must also “claim[] an entitlement to redress” and “state[] the issues that the party intends to present on appeal.” *Id.*

Additionally, though Dairo intimates he wishes to proceed *pro se*, his counsel from Lowther, Walker Law Firm remain the counsel of record in this matter. The Court normally does not entertain *pro se* filings from a represented party like Dairo,¹ *see United States v. Haubrich*, 744 F.3d 554, 557 (8th Cir. 2014), and his counsel generally are expected to file a notice of appeal on his behalf, *see* 8th Cir. R. 27B(a). Further, Dairo’s retained trial counsel must generally continue to “represent [him] on appeal, unless the Court of Appeals grants permission to withdraw.” *Id.* Thus, any request from counsel to withdraw from Dairo’s case must be addressed to the Eighth Circuit. Accordingly,

IT IS ORDERED:

1. Defendant Saheed B. Dairo’s letter (Filing No. 53) is construed as a timely notice of appeal.
2. To proceed to appeal, Dairo must submit the required \$605.00 fee to the Clerk’s Office or file a motion to proceed in forma pauperis and completed affidavit within 30 days of the date of this Order, at which time the Court will evaluate his request.
3. The Clerk of Court is directed to send copies of this Order and the proper form affidavit to Dairo at his address of record.

¹The Court has nonetheless done so here to preserve the date of Dairo’s intended notice of appeal.

Dated this 10th day of April 2024.

BY THE COURT:

A handwritten signature in black ink, reading "Robert F. Rossiter, Jr." with a stylized flourish at the end.

Robert F. Rossiter, Jr.
Chief United States District Judge